

**Town and Country Planning Act 1990 – Section 78
Town and Country Planning (Development Management
Procedure) (England) Order 2015**

**Town and Country Planning (Hearings Procedure) (England)
Rules 2000**

Appeal by Gladman Developments Limited

Land off White Post Road

Banbury

Cherwell District Council

**Proposed development of up to 280 dwellings with landscaping, open
space, highway improvements and associated works**

APP/C3105/W/17/3172731

**Statement of Common Ground between Gladman
Developments and Cherwell District Council**

October 2017

 **GLADMAN**

1 INTRODUCTION

1.1 Background

1.1.1 This Statement of Common Ground (SoCG) has been prepared by Gladman Developments Ltd and Cherwell District Council (the Council).

1.1.2 It has been prepared in accordance with the guidance at Annexe T of the PINS Procedural Guide, Planning Appeals – England (5 August 2016).

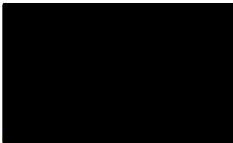
1.2 Officer's Report

1.2.1 Where appropriate, especially on agreed matters, more detail is set out in Officer's Report to Committee dated 4th August 2016 (CD 5.3) except where superseded by that set out in the Council's Statement of Case.

1.3 Parties

1.3.1 This final version of the SoCG is jointly agreed by:

Signed  Date 06/10/17
Chris Still
Planning and Development Director
On behalf of Gladman Developments Ltd

Signed  Date 09/10/17
Matthew Parry
Principal Planning Officer
On behalf of Cherwell District Council

2 CONTEXT

2.1 The Appeal Site

2.1.1 The proposed application site is located to the west of White Post Road, Banbury and comprises three agricultural fields with a number of mature trees and hedgerows which denote the boundaries of each of the fields. The site is presently in use predominantly as agricultural land and has an area of approximately 17.53 hectares (43 acres).

2.1.2 The eastern edge of the site is bound by White Post Road, with the south-eastern boundaries being formed around Banbury Cricket Club. The southern boundary is defined by Wykham Lane, with existing allotments falling outside the site boundary to the south-west of the site. The northern boundary abuts existing residential development on Sycamore Drive. The western boundary is defined by a hedgerow interspersed with a number of mature trees, beyond which are agricultural fields. Land adjoining the appeal site to the west is the subject of a live outline planning application (14/01932/OUT) for up to 1000 dwellings, a primary school and secondary school land, local centre, community facility, sports facilities and public open space with vehicular access from the A361 (Bloxxham Road) with a section of link road to the common boundary between the two sites. This application is the subject of a resolution to grant planning permission following the satisfactory completion of a legal agreement. The access into the site is proposed via White Post Road and, in time, from the A361 via the link road through the application site to the west.

2.2 The Appeal Proposal

2.2.1 This appeal seeks Outline Planning Permission for a residential development comprising:

Outline Planning Application for up to 280 residential dwellings (including 30% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from White Post Road and associated ancillary works. All matters to be reserved with the exception of the main site access, on land west of White Post Road, Banbury.

2.3 Plans for Approval

2.3.1 The drawings for which planning permission is sought are as follows:

Drawing ref	Drawing Name
5713/ASP01	Location Plan
1361/22 Rev E	Proposed Site Accesses and Highway Improvements

The Council consider that the Internal Road Alignment plans should be part of the approved plans but the Appellant does not agree.

2.3.2 The illustrative/informative drawings/documents submitted for consideration include:

Drawing Ref	Drawing Name
5713/ASP03 Rev H	Illustrative Framework Plan
JJG0043/50H	Joint Masterplan
SK201-01-P3	Initial Road Alignment and Corridor
SK205-01-P2	Initial Road Alignment and Corridor Long Sections
Link Road Specification	

2.4 Relevant Planning History

- 2.4.1 The site itself does not have any relevant planning history. However, the site forms part of the Banbury 17 allocation within the Cherwell Local Plan (2011-2031), for the delivery of 1,345 dwellings. An application for 145 dwellings was granted outline approval at appeal in June 2012. A subsequent reserved matters approval was granted in November 2014.
- 2.4.2 The site to the west of Banbury 17, Banbury 16, was allocated for 150 dwellings in the Cherwell Local Plan (2011-2031). An outline application (14/01188/OUT) has subsequently been approved for up to 350 dwellings, associated open space and associated infrastructure.
- 2.4.3 An application for 1,000 dwellings (14/01932/OUT), directly adjacent to this scheme, is subject to a resolution to grant planning permission subject to signing of the S106. The resolution was passed at the same committee meeting as the appeal scheme. An illustrative masterplan has been prepared by the Appellant and the adjacent developer/landowner, to ensure the proposed access and general site layout principles have taken the opportunities available to deliver coordinated development across the allocated site.

3 PLANNING POLICY

3.1 Introduction

3.1.1 The Development Plan for this site consists of the Cherwell Local Plan (2011-2031) Part 1, adopted on the 20th July 2015 and the 'saved' policies of the Cherwell Local Plan 1996. The site forms the eastern section of the strategic site allocation Banbury 17 as contained in the Cherwell Local Plan 2011-2031 Part 1.

3.2 The Cherwell Local Plan (2011-2031)

3.2.1 The Cherwell Local Plan, adopted July 2015, sets the strategic framework for Cherwell District. Policy BSC 1 sets out the District wide housing distribution, outlining provision of 22,840 dwellings between 1 April 2011 and 31 March 2031 (1142 dwellings per annum). The site, which forms the eastern parcel of the Banbury 17 housing allocation (see Appendix 5), will provide up to 280 dwellings towards the overall housing requirement.

3.2.2 Paragraph 1.27 of the adopted Local Plan (and B.95), identifies the need for a review of the plan within two years of adoption in order to plan to meet the unmet needs of Oxford City. Cherwell have agreed to deliver a further 4,400 dwellings to meet these needs and a review is underway.

3.3 Accordance with the Cherwell Local Plan 2011-2031 (and Policy Banbury 17)

3.3.1 The principle of the development proposal accords with the objectives of the Local Plan which seeks to provide a continuous supply of housing land to meet strategic requirements in sustainable locations. The site is considered to be situated in a sustainable location and will contribute towards the housing needs of Banbury and Cherwell as a whole, and in particular meeting objectives set out in Policy BSC1: District Wide Housing Distribution.

3.3.2 The conclusions of the Officer's Report to Committee state:

"The principle of residential development on this site as part of a wider urban extension on the allocated Banbury 17 site has been established and it is the detail of elements of the scheme that is now for consideration. The proposals as submitted would make a very significant contribution towards meeting the housing needs of the District and ensuring the Council's housing delivery trajectory in the Local Plan remains on target. For reasons set out in this report, subject to the recommended conditions and covenants in a legal agreement, the potential for significant adverse impacts arising from the development can be mitigated to an acceptable level such that the proposals amount to sustainable development in accordance with the provisions and requirements of Policy Banbury 17 and other relevant development plan policies. In addition to being

found in general accordance with the development plan, the proposals are also considered to be consistent with Government guidance set out in the NPPF which establishes a presumption in favour of sustainable development. Officers consider there to be no other material planning considerations of significance that indicate determining the application otherwise in accordance with the development. As a consequence, officers recommend that Committee resolves to grant outline planning permission."

- 3.3.3 The parties agree that delivery of residential development on the appeal site would contribute towards meeting the full, objectively assessed housing needs of the District and therefore the housing requirement outlined in the adopted Cherwell Local Plan (2011-2031).

3.4 The NPPF

- 3.4.1 The parties agree, as per §7.1 of the Officer's Report to committee (CD 5.3), that:

"In addition to being found to be in general accordance with the development plan, the proposals are also consistent with Government Guidance set out in the NPPF which establishes the presumption in favour of sustainable development. Officers consider there are no material considerations of significance that indicate determining the application otherwise than in accordance with the development plan."

- 3.4.2 The parties agree that §14 of the NPPF calls for decision takers to grant planning permission without delay where development proposals accord with the development plan.
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4 OTHER MATTERS ON WHICH PARTIES AGREE

4.1 Introduction

4.1.1 The following matters are agreed between the parties and are not at issue in this appeal:

4.2 Overall Position

4.2.1 The parties agree that the proposals (with appropriate conditions and satisfactory planning obligation(s)) would be acceptable and would be in accordance with the Development Plan. Furthermore, the parties have agreed a suitable trigger for the delivery of the link road, minus the wearing course, (prior to the earliest of whichever occurs first: the 151st occupation of a dwelling on the site or 3 years from commencement of development), which would satisfy the 'trigger/mechanism' requirement identified as part of the committee resolution. The Council accept that, subject to this, there is now no need for any further trigger/mechanism that would apply regardless of implementation of the planning permission

4.3 Delivery of the Link Road

4.3.1 The parties agree that delivery of a section of the link road required by Policy Banbury 17 is an essential component of the appeal scheme. This development should be required to provide the section of link road from White Post Road to the site's western boundary only in order to comply with Policy Banbury 17.

4.3.2 The appellant has been in discussions with Oxfordshire County Council as local highway authority to establish the required specification for the link road so that it is fit for purpose and able to be adopted as public highway in due course. Subject to a planning obligation that commits to providing the link road at an appropriate stage and in accordance with the specification set by OCC, both parties agree that the appeal scheme would meet the requirements of Policy Banbury 17 with respect to the link road and so there would be no objection to the proposals in this respect.

4.3.3 In addition to the above the Appellant agrees that in order to overcome the concerns of the Council and the County Council a planning obligation should set an appropriate corridor within the appeal site in which the link road would have to be provided as well as a detailed section of road where it meets the appeal site's western boundary to ensure certainty for development proposals on the wider allocated Banbury 17 site. The parties agree that the planning obligation should include the following clause (or similar) for the delivery of the Link Road :

4.3.4 "To complete in accordance with the Planning Permission and the Spine Road Specification the construction of the Spine Road (minus the wearing course) from the western boundary of the Site to White Post Road prior to the first occupation of the 151st Dwelling or within 3 years of the Commencement of Development whichever is earlier."

- 4.3.5 The Appellant has agreed the coordinates of the 'join' of the spine road on the western boundary with the Gallagher site along with the vertical and horizontal geometry to ensure compatibility of the road across into the Gallagher site.

4.4 Landscape

- 4.4.1 Both parties **agree**, as per the Officers' Report (§6.37), that the impact of the development on the wider landscape would not be significant having regard to the limited height of the proposed buildings on site, the site's urban edge location, flat topography and the site's modest natural landscape value.

- 4.4.2 The Officer's Report to committee, at §6.37 states:

"The proposals as submitted have taken the opportunities available to mitigate their impact on the local landscape in the manner required by the Policy Banbury 17 and as such officers are satisfied that the proposals are acceptable in this regard."

- 4.4.3 The parties agree that the scheme is acceptable in landscape terms, is in compliance with Policy Banbury 17, and with the relevant paragraphs of the NPPF.

4.5 Biodiversity

- 4.5.1 The parties agree that, as per the officer's conclusions in the report to committee (§6.56), that subject to the imposition of the recommended conditions, the proposals have the potential to deliver net biodiversity gains on the site in accordance with the requirements of Policies ESD10 and Banbury 17 of the Local Plan Part 1, as well as the guidance in the NPPF such that the scheme is considered acceptable in ecological terms.

4.6 Heritage

- 4.6.1 The Officer, in his report to committee concluded, at §6.44, the following:

"In conclusion on the issue of heritage impact, officers are of the view that the proposals would give rise to moderate harm to the historic significance of the Salt Way even with the mitigation measures proposed to be secured through conditions and legal agreement. However, the Salt Way is a non-designated heritage asset and the weight to be afforded to its preservation is not substantial and the overall benefits of providing a significant number of new homes in this location outweighs this harm as reflected in the provisions of Policy Banbury 17. The impact on the special character of the Bodicote Conservation Area would be limited and thus acceptable in the context of the significant wider public benefits stemming from the provision of much-needed new housing in this otherwise sustainable location – a fact also intrinsically recognised in the decision to allocate the Banbury 17 site. The harm caused to the setting of individual listed buildings would in officers' view be negligible and therefore of no particular concern. Consequently officers are satisfied that subject to the recommended conditions and covenants, the proposals are acceptable in heritage terms in accordance with the requirements of Policy Banbury 17 and all other relevant local and national planning policies."

- 4.6.2 The parties agree that the proposals would cause moderate harm to the Salt Way, but as a non-designated heritage asset the weight to be afforded to its preservation is not substantial and the overall benefits of the proposals outweighs this harm. The proposals would have a limited impact on the Bodicote Conservation Area and the harm caused to the setting of individual listed buildings would also be negligible and of no particular concern. Therefore, the parties agree that the proposals are in compliance with Policy Banbury 17 and Policy ESD15 of the Cherwell Local Plan, and §134 of the NPPF does not apply.

4.7 Open Space and Recreation

- 4.7.1 The parties agree, as per the officer's conclusions at §6.52 of the report to committee, that:

"...officers are satisfied that subject to the inclusion of relevant covenants in a legal agreement to secure the necessary provision and maintenance of formal and informal recreation facilities, the needs of the residents of the new homes would be adequately served by the type, quality and quantity of facilities proposed and this the development would mitigate its impact on existing recreation provision and provide a suitable quality residential environment within the site for future residents."

4.8 Trees and Landscaping

- 4.8.1 The parties agree that all trees of significance are proposed to be retained and officers are satisfied that they can be suitably protected during construction through the tree protection measures recommended in the submitted Arboricultural report and a condition is recommended to be imposed to ensure this.
- 4.8.2 With regards to landscape, the parties agree that the proposals would not have a materially adverse effect on existing landscape features of significance due to the majority being proposed for retention together with proposals offering significant opportunities for enhancement on the site. The parties agree that the proposals are in compliance with Policies ESP10, ESD13, ESD15 and Banbury 17 of the Local Plan Part 1.

4.9 Drainage and Flooding

- 4.9.1 The Officer's Report to committee, at §6.66 states:

"Policy ESD6 of LPP1 reflects Government guidance in the NPPF by resisting development where it would be unduly susceptible to flooding and/or increase the risk of flooding elsewhere. The site itself is not known to be at risk of either fluvial or pluvial flooding but it is nonetheless necessary for development on the site to appropriately manage surface water to ensure that it does not increase the risk of localised flash flooding in a storm event. As such, it is necessary and in accordance with both local and national planning policy for a sustainable drainage system (SuDS) to be fully incorporated into the development in a manner that mimics natural greenfield rainwater treatment so that there is no net increase in the rate of surface water discharge from the site. Full details of the SuDS on the site have not been provided at this stage given that the application is in outline but the flood risk assessment (FRA) submitted alongside the application clearly demonstrates that the ground conditions on the site and space available make SuDS viable on the site – a conclusion with which drainage officers at OCC concur. A condition is therefore recommended that requires full details of the drainage

scheme to be submitted prior to commencement of development. A number of above and below ground drainage features are likely to be provided on site as part of the drainage scheme including ponds and swales which would in turn have occasional maintenance requirements such that appropriate arrangements for long term maintenance will need to be included in a legal agreement before it can be considered satisfactory. In conclusion, subject to conditions and relevant clauses in a legal agreement, officers have concluded that the proposed development would be acceptable in flood risk terms."

- 4.9.2 The parties agree that the development is acceptable in flood risk and drainage terms subject to the imposition of appropriate conditions and a planning obligation(s) setting out suitable maintenance arrangements for the on-site surface water drainage features.

4.10 Impact on Public/Community Infrastructure

- 4.10.1 The Officer's report to committee states, at §6.78:

"...the proposals would have a significant and unacceptable impact on public/community infrastructure without the mitigation measures set out above being secured through conditions and/or a legal agreement as appropriate. Subject to satisfactorily securing the mitigation, the proposals are considered to be acceptable and in accordance with the requirements of Policies BSC9, INF1 and Banbury 17."

- 4.10.2 The parties agree that, subject to appropriate S106 obligations, the proposals can be satisfactorily mitigated through provision of on-site infrastructure and financial contributions towards off-site infrastructure in accordance with national and local planning policy with regard to public/community infrastructure.

4.11 Affordable Housing

- 4.11.1 Both parties **agree** that 30% (rounded up to the nearest whole number) of the dwellings within the appeal scheme shall be affordable housing and this should be included within the planning obligation.

4.12 Open Space and Green Infrastructure

- 4.12.1 The parties agree that the development provides the opportunity to create an environment with healthy spaces where it is easier for people arising from the new community to lead healthier lifestyles. With appropriately designed linkages to the adjacent open space and play areas, this would also be accessible to the wider community. In order for the appeal scheme to be considered to be acceptable, the parties agree that triggers for the provision of all open space, play and recreation facilities must be secured through appropriate clauses within a planning obligation together with suitable arrangements covering ongoing maintenance. Both parties reserve the right to make further representations as part of the appeal upon reviewing the content of the Unilateral Undertaking submitted to the Inspectorate and completed at the Hearing. Both parties have identified conditions requiring the submission of schemes to satisfy these provisions and for these to be submitted and approved prior to the commencement of the development and for these be completed in accordance with the approved details.

5 S.106 OBLIGATION

- 5.1.1 The parties agree that, subject to the required on/off site infrastructure being satisfactory secured through the Unilateral Undertaking, the obligations will provide certainty for the satisfactory delivery of the required infrastructure associated with mitigating the Appeal scheme. Where the parties do not agree as to the compliance of the obligations within the Unilateral Undertaking against the CIL Regulations 2010 (as amended) or in relation to the adequacy of the completed Unilateral Undertaking this will be discussed as part of the Hearing.

6 CONDITIONS

- 6.1.1 The Council have provided a list of suggested conditions to the Inspector with their Hearing Statement. The Appellant will provide an updated list of the conditions with their comments/proposed amendments in advance of the Hearing to enable a discussion on any disagreements during the conditions session.

7 CONCLUSION

- 7.1.1 The parties agree that the acceptability of the appeal scheme in planning terms rests solely on the imposition of appropriate and necessary conditions and the inclusion of appropriate obligations within a completed Unilateral Undertaking,
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